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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,235	06/21/2005	Morten Norgaard	378/9-2091	1619
28147 7590 07/08/2009 WILLIAM J. SAPONE COLEMAN SUDOL SAPONE P.C. 714 COLORADO AVENUE BRIDGE PORT, CT 06605				
EXAMINER BUTLER, PATRICK NEAL				
ART UNIT		PAPER NUMBER		
1791				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/540,235

Applicant(s)

NORGAARD, MORTEN

Examiner

Patrick Butler

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 2,4 and 9-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date 20050621
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Per Applicant's election of Group I and Species B (see Election/Restrictions section below) Claims 2, 4, and 9-15 were withdrawn. In Applicant's Amendment filed 11 February 2009, Claims 2 and 4 are not provided the proper status identifier of Withdrawn. (See MPEP 714(II)(C)(A) and 37 CFR § 1.121(c). "For any amendment being filed in response to a restriction or election of species requirement and any subsequent amendment, any claims which are non-elected must have the status identifier (withdrawn). Any non-elected claims which are being amended must have either the status identifier (withdrawn) or (withdrawn - currently amended) and the text of the non-elected claims must be presented with markings to indicate the changes. Any non-elected claims that are being canceled must have the status identifier (canceled)"). For purposes of examination, the Examiner assumes a status identifier of "(Withdrawn)" for Claims 2 and 4. For subsequent amendments, Applicant is requested to use proper status identifiers for all claims.

Election/Restrictions

Applicant's election of Group I; Claims 1-8; and Species B; Claims 1, 3, 5-8, and 10-13; in the reply filed on 11 February 2009 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 2, 4, and 9-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and/or species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11 February 2009.

Information Disclosure Statement

The information disclosure statement filed 21 June 2005 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered. Specifically, neither an English language version nor an explanation of relevance is provided for DE 31 15985 A1.

Claim Objections

Claims 5-8 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim 8 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Kern (US Patent No. 5,051,223).

With respect to Claim 1, Kern teaches a concrete pipe with an impregnated inner wall (a method for the manufacture of concrete piles comprising an outer layer, said outer layer forming the pipe itself) (see abstract and col. 1, lines 30-58). Prestressing nozzles 13 of smoothing cylinder 5 supply a liquid impregnation material on the inner wall while the pipe form 1 provides an outside wall (inner layer being supplied by an applicator in a mould comprising inner as well as outer mould parts, characterized in that the applicator is formed by an inner mould part or core or by an applicator unit in direct connection with the core) (see col. 1, lines 62 through col. 2, line 34 and figure). Since the inner wall includes a liquid impregnation material that the outer wall does not (see col. 1, lines 30-58), it would be more dense (inner layer of greater density in surface structure). The periodic compression by pressing rolls 6 before interaction with prestressing nozzles 13 of smoothing cylinder 5 (said applicator supplying the inner layer during simultaneous or during immediately following) (see col. 1, lines 62 through col. 2, line 34) would necessarily constitute vibration (vibration).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kern (US Patent No. 5,051,223) as applied to Claim 1 above and further in view of Hutchinson (US Patent No. 2,356,852).

With respect to Claim 1, Kern teaches making a concrete pipe as described above.

However, if Kern's periodic compression by pressing rolls 6 before interaction with prestressing nozzles 13 of smoothing cylinder 5 (see col. 1, lines 62 through col. 2, line 34) is held to not necessarily constitute vibration, Hutchinson teaches that vibration of the core in producing concrete pipe (see page 2 of text, lines 3-22).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Hutchinson's use of vibrations in Kern's core in order to make a pipe with better wear resistance (see Hutchinson, page 2 of text, right column, lines 36-39).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kern (US Patent No. 5,051,223) solely, or further in view of Hutchinson (US Patent No. 2,356,852) as applied to Claim 1 above, and further in view of Steiro (US Patent No. 4,039,642).

With respect to Claim 3, Kern teaches making a concrete pipe as described above. Prestressing nozzles 13 of smoothing cylinder 5 supply a liquid impregnation material on the inner wall while the pipe form 1 provides an outside wall (see col. 1, lines 62 through col. 2, line 34 and figure).

However, Kern does not appear to expressly teach that the supply opening extend in the longitudinal direction of the core.

Steiro teaches making concrete pipe by using an opening that is longitudinal (see abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Steiro's longitudinal opening in Kern's core in order to facilitate expedited processing (see col. 1, lines 23-44) and because longitudinal openings fulfill the same purpose of providing molding material.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Butler whose telephone number is (571) 272-8517. The examiner can normally be reached on Mon.-Thu. 7:30 a.m.-5 p.m. and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. B./
Examiner, Art Unit 1791

/Christina Johnson/
Supervisory Patent Examiner, Art Unit 1791